



Legislative Bulletin October 26, 2011

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Amendments to H.R. 1904 - Southeast Arizona Land Exchange and Conservation Act of 2011

H.R. 1904 - Southeast Arizona Land Exchange and Conservation Act of 2011 (Gosar, R-AZ)

Order of Business: The bill is scheduled to be considered on Wednesday, October 26, 2011 under a structured rule, [H.Res. 444](#). The rule provides for one hour of general debate, waives all points of order against consideration of the bill, and one motion to recommit with or without instructions.

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AMENDMENTS MADE IN ORDER UNDER THE RULE

Grijalva (D-AZ): As a condition of the land exchange, the amendment would require resolution copper to:

- Locate and maintain the operation center for mining operations in the town of Superior, Arizona, for the duration of the project;
- Actively recruit employees who are residents of Arizona as of date of the land exchange; and
- Ensure that all minerals produced in commercial quantities from the conveyed lands remain in the United States for processing and use.

The text of the amendment can be [viewed here](#). Some Members may feel that this amendment is unconstitutional. The Privileges and Immunities Clause of Article IV, section 2 of the United States Constitution, provides that “[t]he Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.” The primary purpose of the Privileges and Immunities Clause is to prevent measures that discriminate against nonresidents of one state for reasons of economic protection. [Supreme Court Justice Field stated](#), regarding Paul v. Virginia (1869), that the Privileges and Immunities Clause “place[s] the citizens of each State upon the same footing with citizens of other States, so far as the advantages resulting from citizenship in those States are concerned.”

Markey (D-MA): The amendment would strike Section 6 (Value Adjustment Payment) of the underlying legislation. This amendment mandates Resolution Copper to pay (annually by March 15th) a royalty payment equal to 8% of the value of the minerals produced from the conveyed lands during the previous year. The underlying legislation mandates that Resolution Copper pay for the value of minerals produced, if the mineral value is in excess of what was originally estimated to be on the federal lands.

Resolution Copper would be required to report to the Secretary on the quantity of minerals produced. The report is due annually by February 15th after the first calendar year after the lands are conveyed. The state of Arizona will be entitled to the report. The text of the amendment can be [viewed here](#).

Luján (D-NM): Among the land transferred in the legislation, the amendment prohibits the federal government from conveying any Native American cultural sites or sacred land. The text of the amendment can be [viewed here](#).

According to the sponsor's office: Resolution Copper, in 2008, filed a plan of operation with the U.S. Forest Service to start a Prefeasibility Study for the area in question. The U.S. Forest Service found no significant impact to Native cultural sites.

Some Members feel that the San Carlos Apache tribes' rights, with respect to the proposed copper mine, are already protected under federal law, and that this amendment is "a solution in search of a problem."